

Human Rights: From Practice to Policy

**Proceedings of a Research Workshop
Gerald R. Ford School of Public Policy
University of Michigan
October 2010**

**Edited by
Carrie Booth Walling
and
Susan Waltz**

**© 2011 by Carrie Booth Walling and Susan Waltz
ISBN: 978-0-615-60047-5**

**Printed at the University of Michigan
Ann Arbor, Michigan**

All Rights Reserved

A pdf file of this report is available at
<http://deepblue.lib.umich.edu/handle/2027.42/8942>.
For information about bound copies, see
<http://fordschool.umich.edu/humanrightshistory> or
contact Susan Waltz at swaltz@umich.edu.

Forensic Evidence and Human Rights Reporting

Presentation by Eric Stover

I was asked to talk about forensic evidence in human rights reporting but I will begin by first taking a somewhat different direction—namely, the importance of applying forensic investigations in the interests of families of the disappeared. Indeed, when we began our forensic investigations in Argentina in the mid-1980s our primary aim was to identify and return the remains of the disappeared to the families. While evidence was collected for the trial of the junta leaders, our primary focus was the families.

The Search for the Disappeared in Argentina

There were two categories of disappeared in Argentina. The first consisted of what the military labeled as the so-called “*subversivos*”—student activists, trade unionists, academics, journalists, and anyone suspected of having any association with leftist movements. Many of those who were abducted were taken to 365 secret detention centers, where they were tortured, and later executed and buried in individual and mass graves. And then there were the children. Some of them were born in detention to young mothers, who were later executed. The babies were then given up for adoption, often to childless police or military families. In a few cases, military families took custody of very young children who were abducted along with their parents who were later killed.

The use of the forensic sciences to identify the disappeared did not begin because of any action by a group of human rights activists or scientists or lawyers. It all began because of the determination of the families themselves—women who wanted to know the truth about their missing loved ones and wouldn’t be stopped by anything.

In early 1984, after Argentina’s return to civilian rule, three members of the *Abuelas de Plaza de Mayo* came to the United States seeking help. Among their stops they came to see me at the American Association for the Advancement of Science (AAAS) where I directed the Science and Human Rights Program. I’ll never forget the meeting. One of the women had a newspaper clipping from a newspaper in Mar del Plata

which she pulled from her purse. The article referred to the use of HLA testing in cases of contested paternity in the United States. When she finished reading the article, she asked, “Can you help us?” Actually, I didn’t know what to say as I knew very little about the forensic sciences, let alone human genetics. But I said I would try to help.

Through a string of phone calls I eventually tracked down a geneticist at the University of California, Berkeley. And later, at the request of the *Abuelas* and other Argentine human rights organizations and the newly formed Commission on the Disappeared, I assembled a forensic team and we traveled to Argentina. When the team arrived we found many well-intentioned judges had already begun exhumations in a manner that would hinder rather than help in the forensic identification of the remains. Family members of the disappeared were also being further victimized by the careless exhumation and handling of the remains. At the end of the trip, our team called for a moratorium on further exhumations until a proper team could be trained to do the work in a professional manner.

Within a matter of months, the forensic anthropologist Clyde Snow and I had returned to Argentina to begin a training program. We had thought some of the first trainees would be local forensic scientists but found that a number of them had been complicit or turned a blind eye to abuses during the military rule. In fact, only one of wanted to work with us. As a result, we had to go to the medical school and the archaeology school at the University of Buenos Aires and enlist students.

One of the mottos in forensic work is that “You never leave any evidence—whether it be a small finger bone or a shred of clothing--behind in the grave.” But Snow and I also adopted a parallel approach: you *always* leave something behind. In every country we worked in we tried to leave a local forensic team behind. The Argentine forensic anthropology team is a great example of this approach as it not only continues to work in Argentina but also in 22 countries around the world. After their training, the young Argentine team set up offices in downtown Buenos Aires where they confronted several challenges and demands from a wide range of groups, including judges, police, press, NGOs, and, of course, the families of the disappeared. It was a difficult

time for them—they often received death threats over the phone. The team even scripted a response to such calls: “Listen, sir, we don’t take death threats until after four pm in the afternoon.” Across the continent, the Guatemala team—trained later and again comprised of archeology and medical students—also received serious death threats and a few of them had to leave the country.

Training Local Forensic Teams

During the late 1980s and 1990s, Snow and I traveled to several countries to investigate mass killings and continued—with the help of a team of forensic experts from all over the world—to train local teams. These efforts included Chile, Bolivia, Brazil, the Philippines, Honduras, El Salvador, Guatemala, Iraqi Kurdistan, the former Yugoslavia, and Rwanda. Eventually the younger scientists would take over this effort, and Snow and I and the other dinosaurs could leave the pack.

The exhumation process usually begins with a judge’s order. The primary object, of course, is to exhume the remains in a scientific and professional manner; to identify them, if possible; and to determine the cause and manner of death. It was quite common to find a single gunshot wound to the head. In fact, from evidence in the grave you can often determine the *cause and manner* of death. For example, at one site in Iraqi Kurdistan we found blindfolds still wrapped around the skulls of student activists that had been executed by Saddam’s troops.

In any investigation in any city in the world you are looking for three types of evidence: testimonial, documentary, and physical. What forensics adds to the process of investigation is physical evidence, the *corpus delicti*. The purpose for these exhumations was threefold. First it was to help the courts when we could, when they ordered the exhumations. Second was to create a historical record. The fact that the exhumations in Argentina and Guatemala and El Salvador still continue reminds us of the importance of social memory—that is, that the authoritarian governments that produced these killings should not be forgotten. Thirdly, and most importantly for all of us in Latin America at that time, was that for the work was directed toward the families. The remains could be returned for proper burial. The reason this is so

important is that families of the disappeared often live in a world of limbo between hope and denial. They hope the remains of their loved ones will be returned, but they deny the fact that they probably won't be. And so the reality of identifying remains and bringing them home is important. Burials and memorial services can be performed and these are social triggers that can help us move on with our lives, to leave the world of uncertainty and limbo.

After exhumation, the remains go to the lab. Here is a photo of Liliana Pereyera, whose remains were exhumed from an unidentified grave in the southern Argentine city of Mar del Plata in 1984 and later identified. Clyde Snow presented her case in the trial of the military junta. It was an important case because Liliana had given birth to a son in prison, who, according to witnesses, was given up for adoption to a childless military family. Afterwards, Liliana was taken away and executed. As such, her story connected to two categories of the disappeared.

Liliana's remains were identified principally on the basis of post-mortem X-rays of vertebra column, which had to be reconstructed in the lab, and chest X-rays she had taken during a routine medical examination years prior to her death. Liliana's case shows how the forensic work can loop back around. Last fall, I received an email from one of the members of the Argentine Forensic Anthropology Team and a message from one of the *Abuelas de Plaza de Mayo*. The message was brief: "Eric you can't believe this. We found [Liliana's son,] Carlos. He's thirty years old." Carlos, it turned out, had been raised by a military family. Again, the application of the forensic sciences to human rights investigations began because of the families of the disappeared and a few brave judges who saw it as their moral duty to do what was right no matter the risk.

Including Families in the Exhumation Process

It is important for the families of the disappeared to see that young people from their own country are conducting the exhumations, even if outside experts may be advising. Families participate indirectly in the process. They bring photographs and show these to the team members. In turn, the team members will contact the family members to obtain

pre-mortem evidence such as medical records and X-rays and family histories of disease, all of which helps with the identification process. In Guatemala, it is common that villagers help bring down the tools and sing hymns before the exhumation begins. In some case, they will bring meals for the team.

In public health there is a well-established theory called *social control theory*. The idea is that when people—all of us—have control of our lives, we tend to have better health outcomes. You can go up and down the social scale and see evidence of it. What I started to see at the exhumation sites was that the families, through their presence, were actually benefiting from that engagement. That is hardly an empirical observation, but I believe in some cases their presence, their gestures toward the team, their need to find pre-mortem evidence was helpful. Of course, the situation was still difficult but they were relieved to be engaged, to finally find the truth about what had happened to their loved ones. In one Guatemalan village, families turned out to help carry (or walk in procession behind) the coffins of those who had been identified or remained unidentified to the cemetery. It didn't matter if they weren't biological family members; they did it for the community as a whole.

Eric Stover is Faculty Director of the Human Rights Center at the University of California at Berkeley. He formerly served as Executive Director of Physicians for Human Rights and was a founding member of the International Campaign to Ban Land Mines. He has participated in several mass graves investigations and as an “Expert on Mission” to the International Criminal Tribunal for Rwanda and the former Yugoslavia. He is the author of several books including *The Witnesses: War Crimes and the Promise of Justice in the Hague*.

Glossary

ICC – International Criminal Court. A permanent international court established in 2002 to prosecute perpetrators of the most serious crimes of concern to the international community, including genocide, war crimes, and crimes against humanity. Not to be confused with the International Court of Justice, see *ICJ*.

ICTR – International Criminal Tribunal for Rwanda, a special international court established by the UN Security Council in 1994 to prosecute grave crimes associated with the Rwandan genocide.